



Press Release

Luxembourg, 30 November 2021

EU bank resolution: EU auditors provide overview and assessment of 2020 risk disclosures

The European Court of Auditors has an obligation to report each year on any financial risk arising from legal proceedings relating to the Single Resolution Mechanism (SRM), the EU system managing the orderly winding-up of failing banks within the Banking Union. For the 2020 financial year, the Single Resolution Board (SRB) has not reported any contingent liabilities relating to a resolution decision, but relating to litigations about banks' contributions to the Single Resolution Fund (SRF). The auditors consider the disclosures appropriate, but highlight new case-law, resulting in lower financial risks. Thus, they recommend for next year that the SRB should reassess its risks based on a new method.

The SRM, which entered into force 2014, comprises the SRB, the European Commission, the Council and the national resolution authorities. The SRB plays a central role and administers the Single Resolution Fund, which is funded by banks through ex-ante contributions and can be used to support bank resolutions. So far, the SRF has not been called upon, but there are a considerable number of ongoing legal proceedings.

“It is difficult to predict the outcome of legal proceedings related to bank resolution and their effect”, said Rimantas Šadžius, the member of the European Court of Auditors responsible for the report. “However, for interested parties it is important to know the best estimate of the possible financial exposure. This is why the SRB should find a way to reassess the impact of ongoing disputes concerning banks’ contributions to the Fund, especially given the new case-law”.

There are 100 open cases at EU level related to the resolution of Banco Popular Español in 2017, and 1 451 administrative proceedings and court cases at national level. Applicants are seeking the annulment of the SRB’s resolution scheme and the Commission’s endorsing decision. Some applicants have also brought pleas of illegality against the underlying legal framework, and damage claims against the EU. There are also three actions before EU courts seeking the annulment of the SRB’s non-resolution decisions for two ABLV banks and PNB Banka. The SRB and the Commission considered the probability of a negative judicial outcome to be remote. Consequently, they expected no outflow of resources, and reported no related contingent liabilities for the 2020 financial year. The auditors found no evidence that would contradict this assessment. The Council

The purpose of this press release is to convey the main messages of the European Court of Auditors’ annual report on the SRM’s contingent liabilities. The full report is available at www.eca.europa.eu

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is not involved in any legal challenges related to its resolution tasks, and has therefore disclosed no contingent liabilities.

As for litigation about the calculation of banks' contributions to the SRF, for 2020 the SRB disclosed contingent liabilities of €5 561 million relating to 41 legal proceedings at EU level. Unlike in previous years, the SRB did not disclose contingent liabilities related to national proceedings against ex-ante contribution decisions, in line with a recent Court of Justice judgment highlighting that national courts do not have competence to annul these decisions. On the other hand, the auditors note that the SRB followed a prudent approach in disclosing as contingent liabilities the full amount of the disputed ex-ante contributions at EU level, in the light of last year's judgment questioning the legality of the underlying methodology. However, they also note that it is unlikely that the SRB will have to compensate the full amount of the contributions. Consequently, and due to the Court of Justice's new judgment confirming the validity of the methodology, the auditors recommend that disclosures for 2021 should be reassessed. In particular, a method should be developed for calculating the estimated difference in contributions between original decisions and potentially revised ones to disclose fair risk estimates. They also recommend that risk monitoring of national cases should be maintained until the majority of cases have been resolved.

Background information

This audit report deals exclusively with contingent liabilities arising as a result of the performance by the SRB, the European Commission and the Council of their tasks under the SRM Regulation for the 2020 financial year. It is available on the [ECA website](#) in 23 EU languages.

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